

#12

1/18/07

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Chris Carmichael, et al.      Art Unit : 627  
Serial No.: 09/710,690                      Examiner : Byan Jaketic  
Filed : November 10, 2000  
Title : METHODS AND SYSTEMS FOR DISTRIBUTING PRODUCTS VIA A  
WIDE-AREA NETWORK SUCH AS THE INTERNET

**MAIL STOP PETITIONS**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

PETITION UNDER 37 CFR \$1.137(a)  
TO REVIVE UNAVOIDABLY ABANDONED APPLICATION

Pursuant to 37 CFR \$1.137(a), and in response to the Notice of Abandonment mailed December 26, 2002, applicants hereby petition to revive the abandoned application. The application was abandoned for failure to respond to the May 23, 2002 Official Action.

Enclosed is a proposed response to the Official Action to continue prosecution of the application. Applicants submit that the entire period of delay was unavoidable.

Please apply the \$250 petition fee by a small entity as set forth in 37 CFR \$1.17(1), and any other applicable charges or credits, to Deposit Account No. 06 1050.

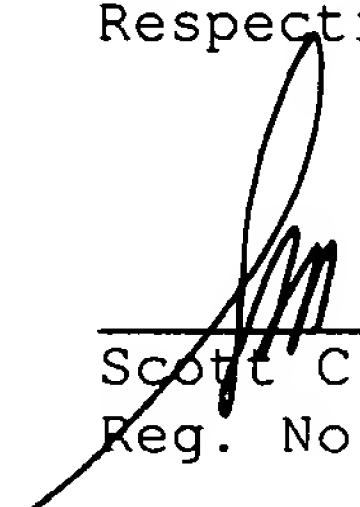
As evidenced by the attached declaration of Connie Jordan (previously Connie Carmichael), the applicants attempted diligently to ascertain the status of the application and

continue its prosecution. As further evidenced from the attached declaration, this is much more than merely having sent documents to the wrong address. The applicant could not have been expected to foresee that the Lyon & Lyon law firm would dissolve, or that patentee's choice of another firm would be unwilling and/or unable to represent them.

Applicants could also not have been expected to foresee that their second law firm would be unable to proceed without the contents of the entire file. This sequence of events is quite simply beyond what a normal person exercising ordinary care would expect. As evidenced from the attached declaration, the applicants used reasonable care, and over the many years, continually attempted to obtain copies of the files and to obtain new attorneys to handle the files. Under the circumstances, the abandonment must be considered unavoidable.

Respectfully submitted,

Date: October 30, 2006

  
\_\_\_\_\_  
Scott C. Harris  
Reg. No. 32,030

Fish & Richardson P.C.  
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Chris Carmichael, et al.    Art Unit : 3627  
Serial No.: 09/710,690                      Examiner : Bryan Jaketic  
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P.O. Box 1450  
Alexandria, VA 22313-1450

RENEWED PETITION UNDER 37 CFR \$1.137(b)

Sir:

This is in response to the Decision on Petition mailed  
November 8, 2006.

The undersigned continues to believe that under the  
circumstances, the actions of the petitioner were done using the  
amount of care and diligence that was generally observed by the  
prudent and careful person in response to their most important  
business. However, it is also noted that a 137(b) petition is  
also appropriate, since the same set of facts set forth and  
declared previously, also support unintentional abandonment.

Accordingly, Applicants herewith renew this petition, but  
this time under Rule 137(b).

The reply to the outstanding office action was previously  
filed on October 30, 2006 along with the petition for revival  
filed on that date.

The Rule 17(m) petition fee of \$750 (small entity) is also paid herewith.

The entire delay in filing the required reply from the due date until the filing of a grantable petition was unintentional.

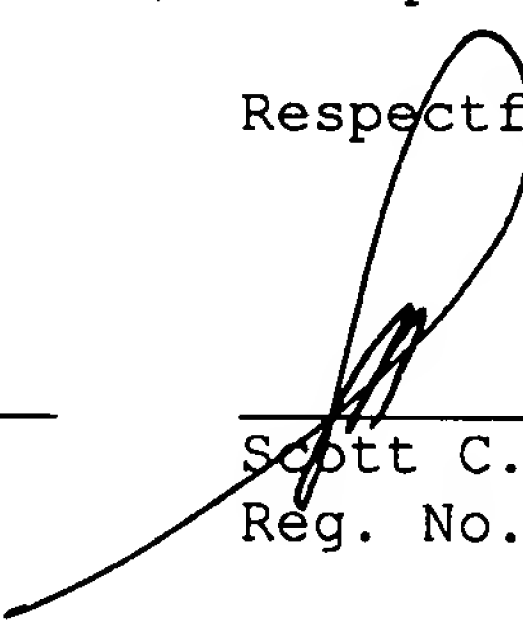
No terminal disclaimer is believed necessary under rule 20(d).

Revival of the above-referenced application is respectfully requested.

Please apply the \$750 petition fee, and any other outstanding charges or credits, to Deposit Account No. 06-1050.

Respectfully submitted,

Date: January 8, 2006

  
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## Electronic Patent Application Fee Transmittal

<b>Application Number:</b>	09710690			
<b>Filing Date:</b>	10-Nov-2000			
<b>Title of Invention:</b>	Methods and systems for distributing products via a wide-area network such as the internet			
<b>First Named Inventor/Applicant Name:</b>	Chris Carmichael			
<b>Filer:</b>	Scott C. Harris/Sharon Gebhart			
<b>Attorney Docket Number:</b>	SD-CARMI-SCH051006-1-SXG			
Filed as Small Entity				
<b>Utility Filing Fees</b>				
<b>Description</b>	<b>Fee Code</b>	<b>Quantity</b>	<b>Amount</b>	<b>Sub-Total in USD(\$)</b>
<b>Basic Filing:</b>				
<b>Pages:</b>				
<b>Claims:</b>				
<b>Miscellaneous-Filing:</b>				
<b>Petition:</b>				
Petition-revive unintent. abandoned appl	2453	1	750	750
<b>Patent-Appeals-and-Interference:</b>				
<b>Post-Allowance-and-Post-Issuance:</b>				
<b>Extension-of-Time:</b>				

Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Miscellaneous:				
Total in USD (\$)				750

## Electronic Acknowledgement Receipt

<b>EFS ID:</b>	1424621
<b>Application Number:</b>	09710690
<b>International Application Number:</b>	
<b>Confirmation Number:</b>	5681
<b>Title of Invention:</b>	Methods and systems for distributing products via a wide-area network such as the internet
<b>First Named Inventor/Applicant Name:</b>	Chris Carmichael
<b>Customer Number:</b>	20985
<b>Filer:</b>	Scott C. Harris/MARY ANN REED
<b>Filer Authorized By:</b>	Scott C. Harris
<b>Attorney Docket Number:</b>	SD-CARMI-SCH051006-1-SXG
<b>Receipt Date:</b>	08-JAN-2007
<b>Filing Date:</b>	10-NOV-2000
<b>Time Stamp:</b>	19:52:54
<b>Application Type:</b>	Utility

### Payment information:

Submitted with Payment	yes
Payment was successfully received in RAM	\$ 750
RAM confirmation Number	1016
Deposit Account	061050

### File Listing:

Document Number	Document Description	File Name	File Size(Bytes)	Multi Part /.zip	Pages (if appl.)
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1	Petition for review by the Office of Petitions.	21100-002001.PDF	48925	no	2
Warnings:					
Information:					
2	Fee Worksheet (PTO-06)	fee-info.pdf	8209	no	2
Warnings:					
Information:					
Total Files Size (in bytes):			57134		
<p>This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.</p> <p><u>New Applications Under 35 U.S.C. 111</u> If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.</p> <p><u>National Stage of an International Application under 35 U.S.C. 371</u> If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.</p>					



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Serial No.: 09/710,690 Examiner: Bryan Jaketic  
Filed : November 10, 2000  
Title : METHODS AND SYSTEMS FOR DISTRIBUTING PRODUCTS VIA A  
WIDE-AREA NETWORK SUCH AS THE INTERNET

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AMENDMENT

In response to the Office action mailed May 23, 2002,  
please amend the application as follows:

Amendments to the Claims begin on page 2 of this paper.

Remarks/Arguments begin on page 10 of this paper.

14/A  
1/8/07

Amendment to the Claims:

This listing of claims replaces all prior versions, and listings, of claims in the application:

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1. (Original) A method of distributing products, using a wide area network, comprising the steps of:
- receiving a request for a product from a consumer, wherein the consumer has a specific location,
  - determining an appropriate retailer to fulfill the request, wherein the retailer is determined based upon the location of the consumer and whether the retailer has physical stock of the product,
  - submitting the request to the retailer for subsequent fulfillment of the request, and
  - maintaining an inventory management system for tracking of individual sales of product, wherein the inventory management system utilizes a tracking method comprising the steps of
    - receiving reports of shipments of products from manufacturers to retailers,
    - receiving reports of sales of products from retailers to consumers, and
    - reconciling the reports of shipments and the reports of sales to determine an accurate accounting of quantities of products actually sold to consumers.

2. (Original) The method of claim 1 wherein the retailer is a retailer located in closest proximity to the location of the consumer that has physical stock of the product.

3. (Original) The method of claim 1 wherein the location of the consumer used to determine the appropriate retailer is a postal zip code.

4. (Original) The method of claim 1 wherein the fulfillment of the product is a method of fulfillment chosen from the group consisting of shipping the product to the consumer and allowing the consumer to pick up the product from the retailer.

5. (Currently amended) The method of claim 1 wherein the fulfillment of the product is accomplished by allowing the consumer to pick up the product from the retailer, and further comprising the steps of:

providing a copy of the request to the consumer, wherein the copy includes a code that is unique to the request, and

providing the retailer with the code to enable the retailer to provide the consumer with the product when the consumer picks up the product.

6. (Original) The method of claim 1 wherein the receiving a request for product step is accomplished via a web based interface that enables a consumer to transmit the request for product.

7. (Original) The method of claim 6 wherein the web based interface is incorporated as a component of the inventory management system.

8. (Original) The method of claim 1 further comprising the steps of:

providing a terminal at a retail location that is capable of communicating with the inventory management system using a wide area network,

receiving a request for a product at the terminal from a user of the terminal,

transmitting the request from the terminal to the inventory management system,

identifying a retail location that has stock of the product and that is located proximally to the user,

transmitting the identified retail location that has stock of the product from the inventory management system to the terminal, and

displaying the identified retail location to the user of the terminal via a display located on the terminal.

9. (Currently amended) The method of claim 1 wherein the inventory management system is capable of processing of funds from retailers and consumers, wherein the processing of funds comprises the steps of:

receiving payment information from consumers for products shipped to the consumers from retailers,

converting the payment information received from the consumers to an electronic debit format ~~if necessary~~,

receiving payment information from the retailers for products shipped from manufacturers to the retailers,

converting the payment information from the retailers to an electronic debit format if necessary, and

providing funds to the manufacturers after processing the payment information from the consumers and the payment information from the retailers.

10. (Original) The method of claim 9 further comprising:

receiving payment information from factors for shipments of product sent from manufacturers to the factors and subsequently to the retailers,

converting the payment information from the factors to an electronic debit format if necessary, and

providing funds to the manufacturers after processing the payment information from the factors.

11. (Original) The method of claim 9 wherein the payment information from the consumers is a type of payment chosen from the group consisting of credit card payments, debit card payments, automatic teller machine payments, smart card payments, cashier's check payments, money order payments, personal check payments, cybercash payments, and electronic debit payments.

12. (Original) The method of claim 1 further comprising the steps of:

allowing the consumer to return the product to the retailer that fulfilled the consumer's request,


receiving a notification from the retailer that the consumer has returned the product, and

updating the reports of sales of product from retailers to consumers maintained by the inventory management system.

13. (Original) A system for distributing products while utilizing a wide area network, comprising:

an inventory management system for receiving and maintaining information on transfers of products from

manufacturers to retailers, information on transfers of products from retailers to consumers, and payment information from retailers and consumers, wherein the inventory management system is designed to interact with consumers through a web based interface, and

 a server for maintaining and operating the inventory management system, the server being capable of transmitting orders for products received from consumers to selected retailers, and the server being further capable of interacting with an inventory management system.

14. (Original) The system of claim 13 further comprising:

a terminal located at a retailer, wherein the terminal is capable of providing inventory information to a user using a method comprising the steps of:

receiving a request for inventory, information on a product from the user,

transmitting the request to the inventory management system,

receiving inventory information from the inventory management system, and

displaying the inventory information to the user.

15. (Original) The system of claim 14 wherein the inventory information comprises a location of an alternate retailer that has physical inventory of the product.

16. (Original) A method of distributing products, using a wide area network, comprising the steps of:

maintaining records of product shipments from manufacturers to retailers and product sales from retailers to consumers in an inventory management system,

accepting a request for a product from a consumer with a specific location,

transmit the request to the inventory management system,


identifying a retailer that has stock of the product, wherein the identification is accomplished by identifying retailers that are in close physical proximity to the location of the consumer, in a manner that progresses from retailers that are closest to the location to retailers that are further away from the location, until a retailer that is in closest physical proximity to the location of the consumer and has existing stock of the product is identified, and

transmitting the request from the inventory management system to the retailer for subsequent fulfillment of the request.



17. (Original) The method of claim 16 wherein the inventory management system communicates with consumers using an interface chosen from the group consisting of a web site, a wireless communications interface, and a telephonic interface.

18. (Currently amended) A method of providing sales statistics to manufacturers and retailers, comprising the steps of:



receiving shipment information on products shipping from manufacturers to retailers in a database that is remote from both said manufacturers and said retailers,


receiving sales information on products provided to consumers by retailers in said database,

maintaining the shipment information and the sales information in [[a]] the database, and

analyzing the shipment information and the sales information to determine statistics on actual sales to consumers.

19. (Original) The method of claim 18 further comprising the step of:

providing the statistics on actual sales to. manufacturers or retailers requesting the statistics.



20. (Original) The method of claim 18 further comprising  
the step of:

categorizing the actual sales to consumers by geographic  
territories.

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REMARKS

Reconsideration and allowance of the above referenced application are respectfully requested.

The patent office is thanked for citing the Dennis reference.

The objections to Claim 5 have been obviated herein by amendment.

Claim 9 stands rejected under 35 USC 112, second paragraph, as being indefinite. In response, the term "if necessary" has been removed from the claim.

Claims 18 and 20 stand rejected under 35 USC 102(e) as allegedly being anticipated by Garg. In response, Claim 18 has been amended to recite that the database is remote from both the manufacturers and the retailers. This obviates the rejection, since the point-of-sale sensor must be located at the position of the retailer.

Claims 19 and 20 should be patentable over Garg by virtue of their dependencies.

Claims 1-7 and 13-17 stand rejected under 35 USC 102(a) as allegedly being unpatentable over the American Demographics article written by Fetto in view of the Marketing Computers article written by Dennis, and further in view of Garg. Both the Demographics article and the Marketing Computer article are consistent: they describe websites which allow a user to place

an order in and pick it up at a retailer, or, alternatively, to ship. Nowhere is there any teaching or suggestion, however, of an inventory management system in the either Fetto or Dennis.

The rejection combines Garg, which does teach a form of inventory management system. However, there is no teaching or suggestion, nor anything that would in any way suggest that this kind of inventory management system should be added to the system as described in Demographics or Marketing Computers. In fact, this combination would produce significant advantages, and there is no teaching or suggestion of this in the cited prior art.

Claim 13 should be allowable over the cited prior art for analogous reasons. Nowhere is there any teaching or suggestion in the Demographics article or in the Marketing Computer article about anything having to do with inventory management.

Claim 16 should be allowable for analogous reasons. Claim 16, moreover, defines that the inventory management system sends the request to the retailer. This is further patentable over the cited prior art.

Claims 8-11 stand rejected over the Demographics article in view of the Marketing Computers article. These claims each depend from Claim 1, and hence should be allowable by virtue of their dependency as discussed above.

Claim 12 should similarly be allowable by virtue of its dependency.

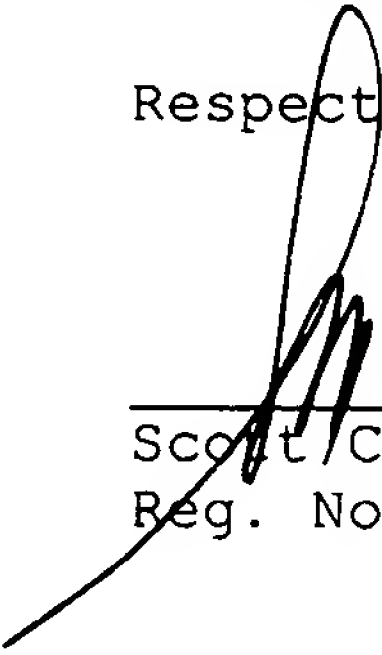
It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific rejection, issue or comment, does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Applicants ask that all claims be allowed. Please apply the petition to revive fee in the amount of \$250, and any other applicable charges or credits, to Deposit Account No. 06-1050.

Respectfully submitted,

Date: \_\_\_\_\_

10/30/06

  
\_\_\_\_\_  
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Reg. No. 32,030

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#15

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DECLARATION OF CONNIE JORDAN

I am a member of International Apparel Group, LLC, Inc., a Delaware Corporation ("International Apparel Group, LLC"), and have been a member since September 1998.

International Apparel Group, LLC originally became a client of the law firm of Lyon & Lyon in 1998, using attorneys in Lyon & Lyon's Irvine office. Lyon & Lyon was working on obtaining the issuance of various patents and trademarks for International Apparel Group, LLC. At some point in time, some of the Lyon & Lyon attorneys working on our case moved to Lyon & Lyon's San Diego office. It is my recollection that at least one other attorney working on the case was working out of Lyon & Lyon's Los Angeles office. Some of the case work also remained in the Irvine office, resulting in our files and representation being handled from three different offices of Lyon and Lyon. Samuel

Stone, a "senior partner" in the firm, was the one overseeing the work and was our main point of contact.

My understanding from my last contact with Samuel Stone was that several patent and trademark applications were in various stages of submission and review by the United States Patent Office.

On or about August 2002, I received a phone call informing me that Lyon & Lyon had begun going through the process of disbanding their partnership and liquidating. I was given papers to sign that my Lyon & Lyon attorney told me were needed. I obtained signatures for those papers. I was also promised a referral to another firm. The referral never happened.

On or about March 2003, International Apparel Group, LLC received what appeared to be a form letter sent from either Lyon & Lyon directly, or their counsel, informing us that in order to pick up all of our client files we needed to retrieve them from San Diego.

On or about the end of March 2003, International Apparel Group, LLC had an employee pick up what we believed to be all of our client files from Lyon & Lyon in San Diego. We retrieved 4 boxes of document files. At the time the International Apparel Group, LLC employee picked up the boxes in San Diego, we were not told, nor did we have any reason to believe, that all of our files were not being provided. Moreover, at no time prior,

during, or subsequent to the time the International Apparel Group, LLC employee picked up the boxes in San Diego, was International Apparel Group, LLC provided with any manifest of stored boxes or any other documentation or listing that could have enabled International Apparel Group, LLC to determine if all of its client files had been returned.

Once the International Apparel Group, LLC boxes of files were retrieved from San Diego, they were placed in my office pending a review by new Intellectual Property counsel.

After retrieving the International Apparel Group, LLC boxes of client files, it was difficult for International Apparel Group, LLC to obtain new Intellectual Property counsel to take over the work by the Lyon & Lyon firm. Without even reviewing the files, law firms were unwilling to try to step into the pending patent applications midstream, due to a fear that Lyon & Lyon's bankruptcy might cause some malpractice issues that would lead to their own exposure.

In about July 2003, International Apparel Group, LLC eventually retained the law firm of Ardell & St. George, who examined the client files returned by Lyon & Lyon, and discovered that the patent and intellectual property files were hopelessly incomplete and obviously missing volumes of additional files. As a result the firm became reluctant to represent International Apparel Group, LLC., and withdrew.



In approximately late May through July 2003, I attempted to contact Lyon & Lyon, attorneys who had worked on our case for Lyon & Lyon, and Lyon & Lyon's debtor's counsel, to obtain the balance of International Apparel Group, LLC's missing client files.

I was not able to obtain any information as to further International Apparel Group, LLC client files that must be being held by Lyon & Lyon. Moreover, I was not even able to figure out who was the right person to talk to about getting the balance of our files.

In May 2003, International Apparel Group, LLC moved from 11 Columbia St., Suite B, Aliso Viejo, California, to its then current address at 114 Pacifica Ave., Suite 150, Irvine, California. At the time, International Apparel Group, LLC notified all of its vendors and clients of the change of address, as well as notifying the United States Post Office of the new forwarding address. As some point after the move, International Apparel Group, LLC also informed the California Secretary of State's office of the changed address for the company and its registered agent, I believe it was not later than December 2003. We also eventually changed our address with the U.S. Patent Office, however we were unclear whether this was even necessary, since Lyon & Lyon still had the files.

On or about July 12, 2004, International Apparel Group, LLC received a forwarded copy of the bankruptcy trustee, David Gill's bankruptcy Action and pending actions with International Apparel Group, LLC. This was the first time that I or International Apparel Group, LLC became aware of the pending Action. This is also believed to be the first notice or mailing that I or International Apparel Group, LLC had received at all with respect to the Lyon & Lyon firm since March 2003.

I contacted David Gill and informed him of the numerous files missing that belonged to International Apparel Group, LLC. I also informed him that I had been inadvertently given some files belonging to other parties when the original boxes were retrieved. When I inquired as to the location of the files he informed me "all of the client files for all of the offices of Lyon and Lyon are being held in the basement of an office building in downtown Los Angeles". He further informed me that there were hundreds of boxes and I could go through them at the conclusion of the bankruptcy to recover any of the files.

I was never able to get the files. I continued to pursue the option of trying to obtain copies of my files -- believing that the only way that I could find out the current status of my files was to find the actual files. I recalled that the last thing I was told, by my previous attorney at Ardell & St.

George, was that the patent application process could not be continued without complete files.

In around May of 2005, I was introduced to a new attorney, Scott C. Harris of Fish and Richardson PC, by a mutual friend. Mr. Harris told me that he would be able to get the files if he was provided with certain numbers from the files. I had no idea that it was possible to obtain files, and I asked him to proceed. Mr. Harris obtained the files, and ascertained that some of the applications had become abandoned. I asked him to proceed diligently with attempting to revive these applications, since I had no intent to abandon these applications, and in fact I did everything possible to revive these applications and therefore the abandonment was unavoidable.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may

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FISH AND RICHARDSON

008/022

Attorney's Docket No.: 21100-002001

jeopardize the validity of the application or any patent issued  
thereon.

Date: 7-13-06

*Connie Jordan*  
Connie Jordan  
Member  
International Apparel Group, LLC

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